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ABSTRACT

This pamphlet uses the Articles of the United Nations Universal Declaration of Human Rights as a framework within which to describe legal safeguards of individual rights in the United Kingdom. Under each article of the Declaration, a historical perspective of the tradition of civil liberties is provided, as are descriptions of recent trends and legal and legislative decisions. Legislation in the following areas is summarized: protection of the person; legal procedures; right to privacy; freedom of movement; nationality; marriage and the family; property; religious toleration; freedom of expression; assemblies and associations; political rights; social and industrial welfare; education, science, and the arts; safeguards for human rights; and international arrangements. (MK)

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Human Rights in the United Kingdom

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Amendment to: HUMAN RIGHTS IN THE UNITED KINGDOM

R5625/78, Classification 3(c), Revised October 1978

The following replaces the second paragraph under the heading **Nationality** (see p 19):

When a British dependency achieves independence, arrangements are made for people born in or closely connected with that territory to become citizens of the newly independent country, and for the withdrawal of their citizenship of the United Kingdom and Colonies unless they have a close connection with the United Kingdom or a remaining dependency. Persons who acquire citizenship of the new country and who also retain their citizenship of the United Kingdom and Colonies possess dual citizenship. There is no objection to this in the law of the United Kingdom but some newly independent countries do not allow dual citizenship and may require such persons to renounce their citizenship of the United Kingdom and Colonies.

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6

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INTRODUCTION

Respect for individual freedom and for the citizen's rights against the State is embedded in the constitutional traditions of the United Kingdom.¹ British people attach great importance to the exercise of human rights and the way in which they are preserved and enlarged through political and legal institutions. This pamphlet, using as a framework the Articles of the United Nations *Universal Declaration of Human Rights* (1948), shows how human rights are safeguarded in the United Kingdom today.

Background

The British system of law provides, through the development of the common law and by legislation, a diversity of specific rights and their accompanying remedies. Thus, for example, to secure the individual's right to freedom from unlawful or arbitrary detention, there are specific and detailed remedies such as 'habeas corpus' (in England and Wales—see p 11) and the action for false imprisonment. The preservation of these rights is guaranteed by the judicial system which is strictly independent of the executive.

Legal remedies provided for interference with citizens' rights are supplemented by procedures designed to obtain independent and impartial scrutiny of action by public bodies about which an individual believes he has cause for complaint, even though the action may have been within the body's legal powers. The actions of central government departments, for example, are open to investigation by the Parliamentary Commissioners for Administration and those of local authorities by the Local Commissioners for Administration and the Northern Ireland Commissioner for Complaints. Complaints about the National Health Service are investigated by the Health Service Commissioner and the Northern Ireland Commissioner for Complaints. Complaints against the police in England and Wales may involve the independent Police Complaints Board. There is a similar board in Northern Ireland.

As well as the legal safeguards provided by Parliament and courts whose judges are strictly independent of the executive, there are vital non-legal safeguards against the abuse of governmental power; these include unwritten parliamentary conventions, the sense of 'fair play' of legislators and administrators, the vigilance of the parliamentary opposition parties and of individual Members of Parliament, the influence of a free Press and public opinion, and the right to change the Government through free elections with a secret ballot.

Several features of British government need to be borne in mind when considering the questions of the preservation and extension of human rights in the United Kingdom:

- (1) Parliament has absolute theoretical power to enact any law and change any previous law. The courts in England and Wales have not, since the seventeenth century, recognised even in theory any higher legal order by reference to which parliamentary legislation could be held void;

¹In this pamphlet the term 'United Kingdom' refers to England, Wales, Scotland and Northern Ireland together. Great Britain includes only England, Wales and Scotland.

however, because of British membership of the European Community, Community law prevails over domestic law in certain circumstances. In Scotland the courts reserve the right to treat legislation as void for breaching a fundamental term of the 1707 Treaty of Union, although there is as yet no case in which they have done so.

- (2) The constitution of the United Kingdom is to be found partly in conventions and customs and partly in statute; there is no written constitution or bill of rights.
- (3) Unlike some countries, British law makes no fundamental distinction, as regards rights or remedies, between 'public law' governing the actions of the State and its agents, and 'private law' regulating the relationships of private citizens with one another; nor is there a separate system of administrative law (and remedies) applied by specialised tribunals or courts. Any person may take proceedings against the Government or local government authorities to protect his (or her) legal rights and to obtain a remedy for any injury he has suffered, in the same way as he can against an individual.
- (4) The United Kingdom has not generally codified its law, and courts adopt a relatively strict and literal approach to the interpretation of statutes.
- (5) The United Kingdom does not, by ratifying a treaty or convention, make it automatically part of the domestic law. Where necessary, domestic law is amended to conform to the terms of the convention so that it may be ratified.

International Safeguards

In the United Kingdom and other countries there is concern about violations of human rights throughout the world. There is also a growing recognition world-wide that the abuse of human rights is the legitimate subject of international concern and that the enforcement of human rights can no longer be left to national governments alone. The assertion of human rights is, therefore, an important part of British foreign policy. In 1975, for instance, the United Kingdom signed the Final Act of the Conference on Security and Co-operation in Europe in which all the signatories undertook to pay greater respect to human rights. Another example is provided by the current negotiations for a successor to the Lomé Convention¹; the United Kingdom has been pressing for agreement on some solution which would enable the European Community to suspend aid to any state guilty of gross and persistent violations of human rights.

One of the most important forums for discussion of human rights is the United Nations whose General Assembly adopted the *Universal Declaration of Human Rights* in 1948. The rights authorised in the Universal Declaration have been included in the legally binding International Covenants on Human Rights which came into force early in 1976. The covenants—one on Civil

¹The Lomé Convention is concerned with economic relations between the European Community and the developing countries.

and Political Rights and the other on Economic, Social and Cultural Rights—have been ratified by the United Kingdom.

The European Convention on Human Rights and Fundamental Freedoms has been ratified by the United Kingdom and other member states of the Council of Europe.

These international safeguards are dealt with more fully on pp 44–8.

Recent Discussion

In the United Kingdom there has recently been growing public debate about the adequacy of existing safeguards. In Northern Ireland the difficult problem has had to be faced of striking a balance between effectively combating the criminal activities of terrorists and maintaining the civil liberties of a free society.

Government-appointed committees of inquiry have over the past few years reported on such topics as privacy, official secrets, defamation and contempt of court. The Government is making available more official information through the publication of factual and analytical material used as background for the making of policy, and intends to introduce new laws to protect the privacy of personal information held in computers.

In 1976 an official working party representing the various central government departments concerned published for discussion a preliminary analysis on *Legislation on Human Rights* (see Reading List), examining in some detail the likely consequences of incorporating the European Convention on Human Rights into domestic law. In Northern Ireland a Standing Advisory Commission on Human Rights (see p 7) has undertaken a study of the adequacy of existing legislation to protect human rights, including an examination of the case for a Bill of Rights. In 1978 a select committee of the House of Lords recommended by a majority that there should be a Bill of Rights for the United Kingdom and that it should be based on the European Convention (see Reading List). The subject of human rights has also been considered by the Labour, Conservative and Liberal parties, all of which have published documents and policy statements.

Several independent organisations are concerned with human rights in the United Kingdom and overseas countries; these include Amnesty International (based in London), Justice (the British branch of the International Commission of Jurists), the Institute of Human Rights, the Minority Rights Group, and the National Council for Civil Liberties.

Where possible this paper covers the United Kingdom as a whole, even though there is no single system of law extending throughout. Where differences between the legal systems and practice of England and Wales, Scotland and Northern Ireland are important, they are mentioned in the text.¹

PROTECTION OF THE PERSON

The first three Articles of the Universal Declaration of Human Rights (*that all human beings are born free and equal in dignity and rights . . . endowed*

¹For information about the different systems of law in the United Kingdom, see COI reference pamphlet *The Legal Systems of Britain*, R6000.

with reason and conscience and should act towards one another in a spirit of brotherhood; that everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind . . . ; that everyone has the right to life, liberty and security of person) are traditional formulae of human rights. There is a long tradition of respect for such rights in the United Kingdom, the principles involved being subject to a process of continuing development, refinement and interpretation in response to social change.

Article 2. *Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status . . .*

Following the progressive extension in the nineteenth and twentieth centuries of the right to vote, the exercise of power in the United Kingdom has come under the control of representatives of the whole nation and the rights and freedoms listed in the Declaration have been, or are being, extended to all the people.

Recent measures include legislation to promote equal pay and opportunities between men and women, a strengthening of the law against racial discrimination, and the extension of social and political rights in Northern Ireland where terrorist violence has given rise to particular problems.

Equal Opportunities for Women

Major legislation promoting equal opportunities and equal pay for women came into force in 1975.¹ Under the Sex Discrimination Act 1975 it is unlawful to treat one person less favourably than another on grounds of sex in employment (including training), education and the provision to the public of housing, goods, facilities and services. Advertisements which indicate an intention to discriminate are also unlawful. The Equal Pay Act 1970 gives women the right to have equal pay with men when doing work which is the same, or broadly similar, or which has been given an equal value under a job evaluation scheme (see p 31). Both Acts apply to discrimination against either sex.

People who believe that they have been the subject of discrimination have the right to complain to an industrial tribunal in respect of discrimination in employment, or otherwise to a civil court of law. Compensation or damages, a declaration of rights or an order to carry out, or refrain from, specified acts are available as remedies. There is a right of appeal against a court or tribunal decision.

The Equal Opportunities Commission (Overseas House, Quay Street, Manchester M3 3HN), established by the 1975 Act, helps to enforce the legislation, promotes equality of opportunity between men and women, and keeps under review the working of the legislation.

Similar legislation has been passed in Northern Ireland where there is a separate Equal Opportunities Commission.

¹For fuller information, see COI short note, *Equal Opportunities for Women in Britain*, SN6009.

Race Relations

The promotion of equal opportunity, accompanied by cultural diversity in an atmosphere of mutual tolerance, is the central objective of the Government's race relations policy.¹ This policy takes into account the fact that the vast majority of members of the ethnic minorities (about 1.8 million people out of a total population of some 56 million) will remain permanently in the United Kingdom and that an increasing proportion have been born and educated there (by mid-1976 about two-fifths had been born in the country). It is the Government's belief that the ethnic minorities are entitled to equal treatment with the rest of the population regardless of colour, race or national origins.

Legislation against racial discrimination was first passed in 1965 and its scope broadened in 1968. The Race Relations Act 1976 supersedes and strengthens the earlier legislation. It is unlawful to treat one person less favourably than another on grounds of colour, race, nationality (including citizenship) or ethnic or national origins; this applies to employment (including training), education and the provision to the public of housing, goods, facilities and services. Advertisements which indicate an intention to discriminate are also unlawful. The procedure relating to the hearing of complaints of racial discrimination is the same as that for complaints concerning sex discrimination (see p 4).

The Commission for Racial Equality (Elliott House, 10-12 Allington Street, London SW1E 5EH) helps to enforce the legislation to promote equal opportunities and good relations among ethnic groups; it also keeps under review the working of the legislation. In addition, the Commission supports and co-ordinates the work undertaken locally by over 100 community relations councils and other bodies.

It is an offence to publish or distribute written matter or to use in any public place (or public meeting) words which are threatening, abusive or insulting and likely, having regard to all the circumstances, to stir up racial hatred. Exceptions are made in the case of fair and accurate reports of judicial and parliamentary proceedings, and there is a defence for the unwitting publisher or distributor.

Human Rights in Northern Ireland

The substantial body of legislation in Northern Ireland to meet grievances and protect human rights has been built up against a background of a community divided both politically and socially. Fears and suspicions between the Protestant majority and the Roman Catholic minority have been increased by the violence which began in 1969. A reform programme initiated in 1969 met many of the specific allegations of discrimination expressed by the civil rights movement which developed in the late 1960s, and subsequent legislation strengthened the law against discrimination. At the same time, however,

¹For fuller treatment of this subject, see COI reference pamphlet, *Race Relations in Britain*, R5934. The ethnic minorities largely originate from the West Indies, East Africa, India, Pakistan and Bangladesh.

continuing terrorist violence has inevitably resulted in the restriction of certain basic rights and freedoms, and successive governments have found it necessary to invoke emergency powers. These have included such measures as detention (although the last detainees were released in 1975); the power to stop, search, arrest and question persons on suspicion of being involved in terrorism; the proscribing of organisations; the abolition of trial by jury for terrorist offences because of the possibility of intimidation of jurors; and the making of exclusion orders. As a result of these measures the United Kingdom Government has given notice of derogation from some of the obligations imposed by the European Convention on Human Rights, claiming that this is justifiable under Article 15 of the Convention as being 'strictly required by the exigencies of the situation'.

It has been the concern of successive British Governments to demonstrate their regard for human rights while dealing firmly with terrorism. This has been shown by a series of committees and inquiries set up to investigate matters causing public disquiet and the readiness to take independent advice or measures which might be necessary to safeguard the rights of the individual. In the case brought by the Government of the Irish Republic to the European Court on Human Rights concerning the interrogation techniques used for a short time after the introduction of internment in 1971 (the power of detention and internment by executive action alone was abolished in 1972), the Court published its judgment in January 1978; it found that these techniques used against 14 men constituted inhuman and degrading treatment but noted that there had been a solemn and unqualified undertaking by the British Government in 1977 not to reintroduce these techniques and that measures had been taken to prevent their recurrence and to afford reparation for their consequences, including the payment of compensation. In July 1978, following the publication of a report by Amnesty International alleging maltreatment of suspected terrorists by the police in Northern Ireland, the Government set up an independent committee of inquiry 'to examine police procedures and practice in Northern Ireland relating to the interrogation of persons suspected of scheduled offences; and to examine the operation of the present procedures for dealing with complaints relating to the conduct of the police in the course of the process of interrogation'. At the same time, the Northern Ireland Police Complaints Board was asked to consider whether it could find any pattern of irregularity.

Among the reforms introduced in Northern Ireland are: the reorganisation of the Royal Ulster Constabulary (RUC), the abolition of the Ulster Special Constabulary, and the establishment of an independent Police Authority representative of all sections of the community; the introduction of universal adult suffrage for local council elections, in which the franchise was previously based on the ownership of property, and the reorganisation of local government; the setting up of a central housing authority and the introduction of a points scheme for the allocation of housing; and measures to prohibit discrimination in public employment. A Parliamentary Commissioner for Administration and a Commissioner for Complaints were also appointed to investigate complaints of maladministration, including discrimination at both local and central government levels.

Further steps to protect human rights were taken when direct rule by the

United Kingdom Government and Parliament was first introduced in 1972.¹ For example, the Northern Ireland Constitution Act 1973 made unlawful all executive actions of central and local government and of statutory bodies which were discriminatory on religious or political grounds; it also made all discriminatory laws void. The Act also set up the Standing Advisory Commission on Human Rights to advise the Secretary of State for Northern Ireland on the effectiveness of the law in preventing discrimination on the grounds of religion or political opinion. Further legislation to promote equality of opportunity was passed in 1976 when the Fair Employment (Northern Ireland) Act made discrimination in employment unlawful on the grounds of religious belief or political opinion and the Sex Discrimination (Northern Ireland) Order made discrimination in employment and in the provision of goods and services unlawful on the grounds either of sex or of marriage.

Complaints against the security forces are fully investigated, and in 1977 legislation was passed to provide an independent element in the handling of complaints against the police. The Standing Advisory Commission on Human Rights has published three annual reports in which it has considered the effectiveness of existing legislation and the need for new legislation. During 1977 it also published its views on the law relating to divorce and homosexuality (questions which had been referred to it by the Secretary of State for Northern Ireland), as well as the report of a major study on the protection of human rights by law which included an examination of the case for a Bill of Rights (see Reading List). In the latter report the Commission accepted that there is already an impressive body of law in force designed to protect human rights in Northern Ireland and that this should not be underrated. The Commission considered, however, that there is a need for further comprehensive protection of human rights in Northern Ireland and recommended that the European Convention on Human Rights should be incorporated into domestic law as a Bill of Rights for the whole of the United Kingdom. In response the Secretary of State for Northern Ireland said that this recommendation was among the matters being discussed by the House of Lords Select Committee on a Bill of Rights (see p 3).

Article 3. *Everyone has the right to life, liberty and security of person.*

The intentional taking of life is a criminal offence save in execution of the lawful sentence of a competent court. The killer is liable to criminal proceedings. The death penalty for murder has been abolished since 1965 (1973 in Northern Ireland). The mandatory penalty is imprisonment for life. Anyone subject to such a sentence is liable to be detained for the rest of his or her life, but may be released on licence (see p 9). The offences of treason and piracy with violence carry the death penalty but it is not mandatory.

A person may use such force as is reasonable in the prevention of crime

¹This followed the prorogation of the Northern Ireland Parliament after the resignation of the Northern Ireland Government because it was unable to accept the United Kingdom Government's decision that the United Kingdom Parliament should take over responsibility for law and order in the province.

or in effecting or assisting in the lawful arrest of offenders, suspected offenders, or persons unlawfully at large.

In order to minimise the risk of injury and loss of life through the use of firearms, there is strict licensing and control of the sale and possession of firearms and ammunition. Heavy sentences can be imposed on people carrying firearms on criminal activities.¹ The police do not normally carry firearms.

The right to liberty is secured by the writ of 'habeas corpus' (see p 11) and other measures designed to protect people from arbitrary arrest and detention (see p 11). The security of the person from injuries is effected by the operation of the criminal and civil law. Any deliberate violence to the person is a criminal offence to which legal penalties are attached, while under civil law, damages can be recovered for any assault. Civil and, in some circumstances, criminal proceedings are also possible in respect of accidents where the necessary degree of negligence can be established. In addition, courts in England and Wales can order an offender to pay compensation in respect of personal injury (or loss of, or damage to, property—see p 21) resulting from his or her involvement in criminal activity. A similar scheme for Scotland is under consideration by the Government.

The Criminal Injuries Compensation Scheme provides compensation to victims of crimes of violence and to people hurt as a result of attempts to arrest offenders and prevent offences. Compensation is assessed on the basis of common law damages and usually takes the form of a lump sum payment; over £40 million has been paid since the scheme started in 1964. The scheme does not apply in Northern Ireland where there is statutory provision in certain circumstances for compensation from public funds for criminal injuries caused to people and also for malicious damage to property.

In Northern Ireland organised terrorism has made necessary emergency measures, involving some constraints on normal rights to liberty, to protect the lives and security of the public (see pp 6 and 12).

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Slavery ceased to exist in the British Isles many centuries ago, and the United Kingdom took the lead in the abolition of the slave trade throughout the world. In 1807 legislation was passed prohibiting the importation of slaves by British subjects into foreign territories and the export of slaves from British territories. In 1834 slavery was abolished in British possessions in all parts of the world.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

No method of mental or physical oppression may be used to force a confession from an arrested person. Even greater protection for the accused is given by the Judges' Rules (first formulated in England and Wales in 1912—

¹See COI short note, *The Control of Firearms in Britain*, SN5991.

see Reading List). Although not having the force of law they, together with the administrative directions to the police with which they are issued, constitute a code of practice setting out the basis on which answers and statements to the police may be admissible in evidence in subsequent criminal proceedings. They state that these are admissible only if they have been made voluntarily and not obtained by fear of prejudice or hope of advantage, exercised or held out by a person in authority. Statements are also inadmissible if obtained by oppression. Non-conformity with the Rules may render answers and statements liable to be excluded from evidence in subsequent criminal proceedings.

In Scotland the courts usually reject as evidence statements made by an accused person unless satisfied that they have been fairly obtained.

In Northern Ireland, where terrorist-type offences are tried on indictment by a single judge, statutory rules are laid down governing the admissibility as evidence of statements made by the accused in such cases. If there is *prima facie* evidence that the accused was subjected to torture or to inhuman or degrading treatment in order to induce him to make the statement, the onus is on the prosecution to prove beyond reasonable doubt that the statement was not so obtained: if the prosecution fails to do so, the statement is not admitted as evidence. This provision does not, however, affect the duty of the court to have regard to all the circumstances in which a confession received in evidence is made. In addition, the court has wide discretion, even where the rules have been applied, to exclude or disregard any statement of the accused if the interests of justice so require.

The chief aims of the British penal systems are to deter the potential law-breaker and to reform the convicted offender. The element of deterrence is intended to lie in the probability of detection, public trial and punishment rather than in the severity of the punishment itself.

Imprisonment and, for certain categories of young offender, other forms of custodial treatment form an important part of British penal practice, but are increasingly seen as the last resort in dealing with people who break the law. Wherever possible and appropriate for the safety of the public, the treatment of offenders within the community is regarded as preferable to custodial treatment. Alternatives to custodial treatment include fines, probation, suspended sentences, community service, and conditional discharge.

The mandatory sentence for murder is imprisonment for life; this is the maximum penalty for other serious offences such as manslaughter, rape and other sexual offences, robbery with violence, arson, various terrorist offences, and offences involving the use of firearms. Maximum sentences for other offences vary a great deal but courts have complete discretion within these maxima to select the sentence in the light of the nature and gravity of the offence and the available information about the offender. In certain cases this discretion is modified by statutory provisions designed to ensure that prison sentences are kept to a minimum.

All prisoners serving a sentence of imprisonment for an actual term of more than one month, except those sentenced to imprisonment for life, are allowed remission of one-third of their sentence. Remission may be forfeited for serious misconduct in prison. In addition, prisoners serving fixed sentences totalling more than 18 months become eligible for consideration for release

on parole after serving a third of their sentence or 12 months, whichever expires later. The general rule is that the parole licence remains in force until the date on which the prisoner would have been released if he had not been licensed. Prisoners serving life sentences may be released on a life licence only on the recommendation of an independent parole board and after consultation with the judiciary; they remain on licence for the rest of their lives and can be recalled to prison at any time should circumstances warrant it.

There is no parole scheme in Northern Ireland where prisoners can receive remission of one-half of their sentences, subject to loss of remission incurred by any offences against prison rules.

Article 6. *Everyone has the right to recognition everywhere as a person before the law.*

Article 7. *All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.*

Article 8. *Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.*

Everyone has the right of access to the courts and to the legal remedies that are available; there is no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status (see pp 4-5). In Wales, anybody who wishes to speak Welsh in any legal proceedings is free to do so; this ensures that people with Welsh as their first language (see p 39) are not linguistically handicapped.

People with limited resources can obtain representation from the legal aid schemes to meet the cost of work normally done by a lawyer. This includes advice and assistance and, if there is a reasonable case, aid in criminal and civil proceedings. People receiving help may be required (according to their means) to pay a contribution. There are some financial limits on the amount of work a lawyer can do for a client by way of advice and assistance alone, but these do not apply where legal aid has been granted.

The effective remedies against violations of fundamental rights are: (a) proceedings before the criminal courts which may result in the conviction of the offender, and (b) an action in the civil courts which may result in an award of damages. Other redress in a civil court may include an injunction against the perpetration or repetition of a wrong, breach of which renders the person liable to imprisonment, fine or sequestration of property.

All authorities of the State are subject to judicial control with the exception of Parliament as a whole and any subordinate body whose decisions have been expressly excluded by Parliament from review by the courts. Government departments or any public authority committing an act which is a tort or breach of contract, or exceeding their discretionary powers, are also liable to such legal penalties as the law allows. Furthermore, a member of the

public has the right to complain if he thinks he has suffered injustice as a result of maladministration by a government department. The complaint is made, through his Member of Parliament, to the Parliamentary Commissioner for Administration who has power to make the most searching investigation (including the examination of records and the questioning of ministers and civil servants), and to report his findings to the Member who raised the grievance. The Commissioner makes an annual report and other reports to Parliament. Northern Ireland has its own Commissioner.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Every individual has a legal right to personal liberty, and no one may be arrested except in pursuance of criminal justice, failure to comply with certain well-defined categories of orders of a civil court, and contempt of a superior court or of Parliament. Arrest to enforce a court order in civil proceedings can be effected only on a warrant of the court or by a specific power of arrest granted by the court in cases of domestic violence. In criminal cases it may be effected on a warrant issued by a judicial authority on information laid before it, or without warrant if authorised by law—as, for instance, in the case of a class of more serious ‘arrestable’ offences. Members of the public as well as police officers have certain powers of summary arrest in regard to this class of offence, but such powers may be exercised only in circumstances expressly defined by statute. The arrest is not lawful if the citizen or the constable had no reasonable grounds for his action, and civil or criminal proceedings may be taken by the person aggrieved.

Anyone arrested on a criminal charge must be informed at once of the reason for his arrest and be brought speedily before a court of law as soon as practicable and wherever possible within 24 hours. If it is not possible to bring the defendant before a court within 24 hours, a police officer must release him on bail by discharging him temporarily and ordering him to appear in court at the time appointed for the trial; this applies in cases where the arrest is without warrant and the offence is not serious. The court may also grant bail. In England and Wales there is a statutory presumption in favour of the granting of bail by magistrates’ courts to unconvicted defendants. The effect of this is that where a person appears before a court on a criminal charge and a remand is necessary, the court must remand him on bail unless it is satisfied that, if released on bail, he would be likely to abscond, commit offences or otherwise interfere with the course of justice. It is an offence to abscond while on bail.

Anyone who believes himself to be detained on unlawful grounds may seek a court writ of habeas corpus against the person detaining him, this person then being required to appear in court to show the reason for the detention. Proceedings may be instituted by the person detained, by someone acting on his behalf at his request or by anyone else who believes him to be unlawfully imprisoned. If no lawful cause can be shown, the prisoner must be released at once. In Scotland, where the writ of habeas corpus does not apply, the High Court of Justiciary has a similar power to release anyone unlawfully detained. So strong are the law and tradition on this point that any application concerning personal liberty is given priority of

hearing in any court of law. Furthermore, it is open to any individual who has been unlawfully detained to sue the person who so detained him for assault or false imprisonment.

The penalties of outlawry or banishment in the form of exile or transportation do not form part of British criminal justice.

Prevention of Terrorism

Because of the emergency in Northern Ireland various special temporary measures have been necessary to deal with terrorist offences.

The Prevention of Terrorism (Temporary Provisions) Act 1976, applicable throughout the United Kingdom and renewable every 12 months, contains three kinds of power. It enables organisations concerned in terrorism connected with Northern Ireland affairs to be proscribed; it enables the Home Secretary to exclude from Great Britain or Northern Ireland, or in certain cases from the United Kingdom as a whole, people concerned in terrorism designed to influence public opinion or government policy over affairs in Northern Ireland; and it gives the police powers to arrest without warrant people whom they reasonably suspect of being involved in terrorism and to hold them for 48 hours and, with the Home Secretary's approval, for up to a further five days. In addition, the Act imposes a system of travel controls between Great Britain and Ireland.

The Government recognises that the Act infringes the liberties of individual citizens but considers that a balance has to be struck between the maintenance of civil liberties and the protection of the public. A recent review of the Act (see Reading List) concluded that, subject to certain amendments, its powers are necessary so long as the threat from terrorism continues.

The Criminal Jurisdiction Act 1975 creates extra-territorial offences under Northern Ireland law so that it is possible to try in the Province a person accused of certain offences in the Irish Republic. It also enables evidence to be obtained in Northern Ireland for the trial of offences in the Irish Republic. Reciprocal legislation has been passed by the Irish Parliament.

In Northern Ireland itself emergency powers have been necessary to combat terrorism. These include the power to stop, search, arrest and question people on suspicion; the proscribing of organisations; and the abolition of trial by jury for terrorist offences.

LEGAL PROCEDURE

Article 10. *Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.*

An important feature of the British legal systems is the independence of the judiciary, which is free to administer the law without any intervention from the Government, which can neither disturb nor delay the course of justice, nor force the judges to act otherwise than impartially.

A further safeguard against corruption and prejudice in the administration of the law is provided by the jury system, which is an integral part of the more serious criminal proceedings in all parts of the country, and can be a feature of certain civil cases, although this is fairly rare outside Scotland. In criminal trials by jury it is, broadly speaking, the judge's duty to determine questions of law and to discharge the accused person or pass sentence on him, but the jury (comprising 12 or, in Scotland, 15 people) is responsible for deciding the questions of guilt or innocence. Verdicts need not necessarily be unanimous but the rules about majority decisions vary according to the legal system. In some civil actions tried by jury, the size of the jury is smaller and it may be responsible not only for deciding questions of fact but also, where appropriate, for fixing the amount of damages.

A jury is completely independent of both the judiciary and the executive. Moreover, although there are provisions for both the prosecution and the defence in criminal trials to object to particular jurors, once members have been sworn in, they are protected from interference of any kind. Qualification for jury service in England and Wales is based on residence and the electoral register. People following certain occupations are either ineligible or can be excused jury service, and some people with serious criminal records are disqualified. In Scotland qualification for jury service retains certain property qualifications, although the amounts involved are very small.

Because of the emergency in Northern Ireland and the risk of intimidation of jurors, the jury system in the Province is suspended for certain terrorist criminal offences (see p 6).

Court proceedings are normally held in public except for cases involving children (where the child's right of privacy is considered paramount) or matters of state security or in civil proceedings where the subject matter of the action would be destroyed by publicity (for example, secret industrial processes). Certain restrictions are placed on press reporting to protect children and to preserve the more intimate details of the private lives of the parties to domestic and matrimonial proceedings. In England and Wales there are also restrictions on court reporting when magistrates make preliminary inquiries into a more serious case to see whether there is sufficient evidence to justify committal for trial by jury in a higher court; the evidence must not be reported except at the defendant's request unless the latter is discharged by the magistrates. Comment as well as factual reporting may be published in respect of civil and criminal trials provided that it is not calculated to bring a court or judge into contempt or cause serious risk of prejudice to the course of justice.

The expansion of governmental activity and involvement in the economic and social affairs of the nation has greatly increased the occasions on which the individual may find himself at issue with the administration, with a group of people, or with another individual. As a result, there are administrative tribunals which decide or adjudicate in disputes arising under regulatory or welfare legislation. Although outside the ordinary hierarchy of the law courts, the tribunals exercise judicial or quasi-judicial functions. They deal, for example, with valuation and compensation for compulsory acquisition of land, social security benefits, mental health, industry and employment matters, transport and taxation. Their establishment, constitution, powers,

functions and procedure are settled by Parliament. There is no general provision over appeals from tribunals but there is a right of appeal, at least on a point of law, from all the more important tribunals to a court of law. Appeals may also be made to a specially constituted appeal tribunal, to a government minister or to an independent referee. The Council on Tribunals and its Scottish Committee exercise general supervision over the constitution and working of most administrative tribunals.

Article 11 (i) *Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.*

The criminal law presumes the innocence of the accused until his guilt has been conclusively proved by the prosecution. A judge in a criminal trial must invariably direct the jury in unmistakable terms on the onus of proof, and failure to do so may result in the conviction being quashed. The jury must be satisfied of guilt beyond reasonable doubt, not merely inclined to believe it on a balance of probabilities. Scottish law also allows a verdict of 'not proven' which results in acquittal.

An accused person cannot be compelled by the police to answer questions before trial (see p 8), nor can he be questioned at his trial unless he consents to be sworn as a witness in his own defence. The right to cross-examine a defendant, even when he is so sworn, is limited by law, the aim being to exclude inquiry into his own character or into past offences not relevant to the particular charge on which he is being tried. No one can be tried twice for the same offence.

Every accused person has the right to employ a legal adviser for the conduct of his defence and may be granted legal aid to help pay his costs (see p 10). If he has been remanded in custody he may be visited in prison by his legal adviser so that his case may be properly prepared. The prosecution must inform the defence of the name and address of any person whom they know can give material evidence but whom they decide not to call as a witness. There is no obligation to supply the defence with a copy of the person's statement, but the practice of doing so is increasing.

During the trial, the accused person has the right to hear and subsequently to cross-examine (normally through his lawyer) all the witnesses for the prosecution; to call witnesses on his own account, who, if they are reluctant to attend the trial, may be legally compelled to attend; and to address the court either in person, or through his counsel.

An accused person is further protected by the rules of evidence, which exclude (a) evidence of a person's character or previous convictions in order to prove the charges in the case before the court; (b) hearsay evidence, for instance, oral or written statements made by persons not called as witnesses, on the grounds that such evidence is often irrelevant and of an untrustworthy character; and (c) confessions by the defendant (other than confessions made upon oath in the course of previous judicial proceedings), unless it can be proved that such confessions were made voluntarily—that is, without fear of prejudice or hope of advantage. There are certain exceptions

to these rules, but on the whole they are applied with rigour and severity as they relate to the proof of the case against the accused.

Article 11 (ii) *No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.*

No one can be made to suffer punishment except for acts definitely forbidden by law at the time of their commission.

With the exception of the penalty for murder (life imprisonment), the penalty laid down for a criminal offence is the maximum that can be imposed for the offence. Within that maximum, the courts decide what sentence is appropriate in a particular case. If legislation is passed to increase maximum penalties for certain existing offences, the new maxima cannot normally be imposed for offences committed before the date on which the new powers come into effect. Lower maxima or new forms of sentence can, however, apply forthwith.

RIGHT TO PRIVACY

Article 12. *No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.*

Liberty for the individual in his private life is secured by the ordinary law of the land, enforced by the courts. It is illegal to molest a fellow citizen because his views do not conform to those held by the majority or because his way of life is different from that of the rest of the community. The common law allows the individual to speak and act in his own home as he pleases and to carry on his daily business, provided that in so doing he does not infringe the rights of others, or behave in such a way as is likely to cause a breach of the peace, or commit an offence. Parents are free to bring up their children as they wish, provided that they do not infringe various statutes aimed at preventing cruelty and exposure to moral and physical danger, and that they observe the law regarding compulsory education.

The law does not include a general right to privacy but a number of provisions apply in particular circumstances to protect privacy. Certain forms of intrusion may involve criminal offences—for example, interference with the mail or with telephoning systems, the use of unlicensed radio transmitters for 'bugging', the harassing of tenants to make them quit, or the sending of indecent or obscene matter through the post. Other attempts to obtain private information might involve offences of breaking and entering. In some instances of intrusion on privacy the civil law of trespass, of contract and

copyright, or of breach of confidence may provide a right of action leading to pecuniary damages.

Some protection to privacy is given by the law in court proceedings, notably (in England and Wales) in committal proceedings (see p 13), proceedings in juvenile courts (children's hearings in Scotland), rape cases and in certain aspects of domestic proceedings.

In England, Scotland and Wales the right to privacy of some convicted offenders is safeguarded by legislation under which a person convicted of a criminal offence in general need not admit or reveal it after a rehabilitation period of from six months to ten years depending upon the nature or length of the sentence given; it does not apply to people who have received prison sentences of more than two and a half years.

Protection against attacks on a person's honour and reputation is given by the laws on libel and slander (defamation), injurious falsehood, and passing off (appropriation of a person's business or professional reputation at his expense).

The Younger Committee

The report of the Younger Committee on Privacy, published in 1972, contains the results of the Committee's detailed examination of the whole question of the right of privacy (see Reading List, p 49). It contains proposals for the restatement of the law of breach of confidence; the creation of (a) a new criminal and civil offence of unlawful surveillance by technical devices, and (b) a new civil offence of publication of information obtained by unlawful means; and the establishment of administrative controls over certain activities involving a possible threat to privacy. The majority of the Committee rejected the idea of a general enforceable right of privacy on the ground that it could inhibit freedom of speech and communication; specific proposals were more likely to be effective in the main areas of complaints than any general declaration.

The Government is still considering many of the recommendations, but has published proposals on computers and privacy.

Computers

The need for legislation to protect the privacy of personal information held in computers, and to set up machinery to ensure that all existing and future computer systems in which personal information is stored are operated with appropriate safeguards, was the main theme of Government proposals published in 1975 in a White Paper, *Computers and Privacy* (see Reading List, p 49).

As promised in the White Paper, the Government set up a Data Protection Committee to advise on the powers and functions of a statutory authority which would maintain suitable standards of privacy and confidentiality in relation to personal information held on computers. In the meantime, the Government is continuing to ensure that the administrative rules, under which its own computer systems operate, will provide safeguards for the accuracy and relevance of personal information and for the privacy of the subjects of that information.

FREEDOM OF MOVEMENT

Article 13 (i) *Everyone has the right to freedom of movement and residence within the borders of each State.*

(ii) *Everyone has the right to leave any country, including his own, and to return to his country.*

In peacetime all citizens of the United Kingdom are free to travel about the country unless they are under some form of lawful detention or restriction arising out of civil or criminal proceedings.

There is also free choice of domicile provided that the choice does not infringe the property rights or the amenities of another person. There have never been any segregation laws (religious, political or racial) and place of residence is not prescribed by the State for the private individual, except under the Immigration Act 1971, which gives the Home Secretary powers to impose restrictions upon aliens including restrictions as to residence; these powers, however, are used only very exceptionally and then only when considered necessary in the public interest.

The United Kingdom, in common with most other states, has a passport system, under which any person aged 16 or over entering the country is required to show a passport or other acceptable travel document, or to produce a document satisfactorily establishing identity. A passport is issued by the Foreign and Commonwealth Office acting as the agent of the Crown. Although no United Kingdom citizen has a legal right to a passport, the power of the Foreign and Commonwealth Secretary to withhold or withdraw such a document at his discretion is exercised only in the most exceptional circumstances.

The mobility of nationals of several western European countries has been enhanced by the formation of the European Community and its policies for the free movement of labour and enterprise, as well as goods and capital, between its member countries. As a member of the Community, the United Kingdom shares in the rights and duties flowing from these policies.

Article 14 (i) *Everyone has the right to seek and to enjoy in other countries asylum from persecution.*

(ii) *This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.*

The United Kingdom has a long record of according sanctuary to oppressed people. In the nineteenth century, for instance, Garibaldi, Mazzini, Kossuth, Marx and Lenin were all given shelter. In the 1930s, thousands of victims of Nazi persecution were given asylum and between 1939 and 1945 many nationals of occupied allied countries came to the United Kingdom. At the end of the war many returned to their own countries but considerable numbers remained, and since then the United Kingdom has followed its traditional policy regarding the granting of asylum to those seeking refuge on political grounds. The 28,000 people of Asian origin who held United Kingdom passports and were expelled from Uganda in 1972 were accepted by the British Government as a British responsibility (see p 19).

Under the Extradition Acts 1870-1935, provision is made for the surrender to foreign countries, with which extradition treaties have been made, of people who have committed crimes specified in the Acts and in the treaty in question. A fugitive may not be surrendered if the offence in respect of which his surrender is demanded is of a political character, or if the demand is made with a view to trying or punishing him for such an offence. The Fugitive Offenders Act 1967, which sets out the procedures to be followed in the case of extradition from the United Kingdom to other member countries of the Commonwealth, contains similar safeguards. [The question of the political character of the offence, or of the proceedings contemplated if he is surrendered, is one for consideration by the magistrate who hears the application for committal of the fugitive for surrender; the fugitive, if committed, can also raise the question by habeas corpus proceedings (see p 11); in the last resort, the Home Secretary can, if satisfied that the offence is political, refuse to order his surrender.]

Extradition for political offences is, however, affected by the European Convention on the Suppression of Terrorism which has been concluded by the Council of Europe (see p 46). The Convention came into force for the United Kingdom in October 1978, three months after the deposit of the British instrument of ratification.

The Convention obliges contracting states not to regard certain offences as political for the purposes of extradition between contracting states. These offences include hijacking and attacks against aircraft, kidnapping or the taking of hostages, the use of bombs, grenades, rockets or automatic fire-arms, other serious acts of violence against the person, and those involving an act against property which creates a collective danger for people. The Convention is aimed at terrorists and contains safeguards for political refugees under which extradition can be refused if a state has substantial reasons for believing that the extradition request has been made for the purpose of prosecuting or punishing the fugitive on account of his race, religion, nationality or political opinion. This discretion to refuse extradition has been translated in the Suppression of Terrorism Act 1978 into an absolute prohibition on extradition in these circumstances. Neither the Convention nor the Act, therefore, affects the Home Secretary's right to grant political asylum to the genuine refugee.

NATIONALITY

Article 15. (i) *Everyone has the right to a nationality.*

(ii) *No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.*

United Kingdom citizenship (that is, citizenship of the United Kingdom and Colonies) is acquired by birth in the United Kingdom or in a United Kingdom dependency (or on board a ship or aircraft registered in the United Kingdom and Colonies). Citizenship may also be acquired by descent from a father who is a United Kingdom citizen; through adoption in Britain by a

United Kingdom citizen; by registration in the case of citizens of other Commonwealth countries, citizens of the Irish Republic and women who have been married to United Kingdom citizens; and by naturalisation in the case of foreign nationals and British protected persons.

When a British dependency achieves independence, people born in or closely connected with that territory normally become citizens of the new independent country unless they have a close connection with the United Kingdom or a remaining dependency.

Any person may renounce his United Kingdom citizenship if he possesses, or is about to acquire, the nationality or citizenship of another country. A person cannot be deprived of United Kingdom citizenship against his will unless he was registered or naturalised as a result of fraud, misrepresentation, or deception. A naturalised citizen can be deprived of United Kingdom citizenship on some other very exceptional grounds such as disloyalty. If it is intended to deprive a person of his United Kingdom citizenship, he has a right to be heard by a committee of inquiry and, additionally, the Home Secretary must be satisfied that the deprivation would be in the public good.

A woman who is a United Kingdom citizen does not lose her citizenship if she marries a foreign national. She may renounce it if she has another citizenship or nationality. A woman who is a foreign national and who marries a United Kingdom citizen can acquire United Kingdom citizenship by registration.

People whose citizenship is based solely on birth or residence in a colony or former colony and who have none of the prescribed links¹ with the United Kingdom are subject to immigration control on the same basis as other Commonwealth citizens. In recognition of the pressures on many of those who did not acquire citizenship of the newly independent East African countries, a special voucher scheme was introduced in 1968 to enable those who were heads of household, were under pressure to leave, and had no other citizenship, to settle in the United Kingdom with their families. In 1972, when virtually all the United Kingdom passport holders of Asian origin were expelled from Uganda, exceptional arrangements were made to accept them, as the number of heads of household greatly exceeded the number of special vouchers available in that year.

A discussion paper on British nationality law (see Reading List) was published in 1977. The Government intends to give ample time for study and discussion of the ideas contained in it before reaching firm conclusions and introducing legislation.

MARRIAGE AND THE FAMILY

Article 16. (i) *Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.*

¹A parent or grandparent born in the United Kingdom, citizenship by adoption, registration or naturalisation in the United Kingdom, or ordinary residence in the United Kingdom for five years with no time limit at the end of the period.

- (ii) *Marriage shall be entered into only with the free and full consent of the intending spouses.*
- (iii) *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*

Any two people not of the same sex may marry provided that both are at least 18 years of age, that they are not closely related members of the same family, and that neither of them is already married. Young people between the ages of 16 and 18 can marry on the same conditions, but in England and Wales they must have the consent of their parents, legal guardian or some authorised person, or, in the final instance, a court of law (although the absence of such consent does not make the marriage void). The law permits members of any religion to marry by means of a religious ceremony, provided certain formalities are complied with. A marriage may also be celebrated by a civil ceremony. All marriages are registered by the State.

The law recognises equality of certain rights in matters arising out of marriage. A wife may retain in her own name any property she possesses at the time of marriage or acquires later and take what belongs to her if the marriage is dissolved. She has a right to claim an equal voice with her husband in the care of their children and has equal rights regarding guardianship of children. Her right to divorce is on identical grounds with those of her husband, and financial remedies on the breakdown of a marriage operate in the interests of husbands and wives equally.

During marriage a husband has a legal duty to maintain his wife, provided she does not behave in a way contrary to the spirit of the marriage by, for instance, committing adultery or by deserting him. A wife is liable to support her husband where his earning capacity is impaired. Legislation has been enacted in 1978 placing identical obligations on husband and wife to maintain each other and any of their children; it is anticipated that the legislation will come into force in 1979.

It is unlawful to force anyone to marry against his or her will, or to bring about a marriage by fraudulent means. A person who breaks an engagement to marry does not incur any legal penalties or liabilities.

The family has always been regarded as an essential institution of national life, and the law contains some provisions specifically designed to strengthen marriage and family ties and to maintain the integrity of the family as a social unit. Thus, communications between husband and wife are, in English law, absolutely privileged against disclosure, which means that neither spouse can be compelled to disclose them in a court of law, and cannot be the subject of defamation proceedings. The single ground for divorce in the United Kingdom is the irretrievable breakdown of marriage, the law no longer being based on the concept of matrimonial 'offences'. There are provisions designed to encourage reconciliation and to give financial protection to the respondent where this is necessary.

Children and young persons cannot be removed from home without the consent of their parents unless a court order or, in Scotland, a children's hearing order is made. When children have been removed by order from their homes for their own protection, or have otherwise been deprived of a normal home life (for instance, through desertion by parents), local authorities are

required to care for them, help to bring families together, and secure conditions under which children can safely be reunited with their parents.

In matters of succession, members of the family are in an advantageous position. If death occurs without a valid will, the spouse and children of the deceased have priority; legitimate and illegitimate children have equal rights of inheritance from parents but not from grandparents. If a valid will fails to make provision for a surviving wife or husband and any children, the law in Scotland enables a spouse or child to claim automatically a proportion of the estate. In England and Wales the court has power to make such provision; it can also ensure that provision is made for any person who, in relation to a marriage of the deceased, had been treated by the deceased as a child of his family, or for any person being wholly or partly maintained by the deceased at the time of his death.

PROPERTY

Article 17. (i) *Everyone has the right to own property alone as well as in association with others.*

(ii) *No one shall be arbitrarily deprived of his property.*

The right of ownership is one of the oldest rights known to law. Every person has the right to use and dispose of his own property, subject only to the overriding interest of the community as a whole. Appropriation by the State is only possible with the authority of an Act of Parliament or an order under an Act; this may take the form of taxation (for meeting the expenses of government), nationalisation (of certain industries and services vital to the public welfare), or requisition or compulsory purchase of land, fixed equipment and buildings (for such public purposes as housing, health, education, road building, defence, postal and telephone services, public utility undertakings, civil aviation, open spaces, distribution of industry and the redevelopment of decayed and badly planned areas). Compensation is paid for losses suffered through nationalisation, requisition or compulsory purchase, or the deterioration of property as a result of activities of public authorities.

Deliberate or reckless damage to someone else's property and unlawful gain at the expense of another—whether by theft, robbery, deception, blackmail, handling stolen goods or forgery—are criminal offences. The criminal courts have power to make a compensation order against a convicted defendant. Alternatively, the victim may recover compensation for loss or damage in civil proceedings.

RELIGIOUS TOLERATION

Article 18. *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or*

belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Every person living in the United Kingdom has the right of religious freedom, and may manifest his or her faith in teaching, worship and observance without interference from the community or the State. There is no compulsory state religion. There is complete freedom of thought, conscience or form of worship, and no restriction on the right of every citizen to change his or her religion. Atheists and agnostics may also propagate their views without interference.

A person may, however, be held guilty of blasphemous libel if he or she publishes references to Christianity which are so scurrilous and offensive as to pass the limits of decent controversy. This does not therefore apply to proper debate and discussion about the truth of Christian doctrines.

Churches and religious societies of all kinds own property, conduct schools and propagate their beliefs in speech and writing. No inquiries are made about religion in population censuses or other official returns, although recent full censuses in Northern Ireland have contained an optional question about people's religious beliefs.

There is no religious or denominational bar to the holding of public office except in the case of the British Sovereign, who must by law be a Protestant.

The Church of England and the Church of Scotland are the established churches of England and Scotland. They are the 'official' churches for state ceremonies of a religious nature, and their ecclesiastical law is part of the law of the land and not only a matter of contact between their members. The layman, however, does not obtain any advantage from being a member of the established churches rather than of any other church. The Church in Wales is not an established church.

Although religious instruction has to be given in all primary and secondary schools financed from public funds, parents can object to this being given to their children, who are then withdrawn from such classes. Religious instruction may be based on an agreed syllabus or denominational according to the type of school. Some publicly maintained schools are provided by religious denominations and receive varying amounts of public finance according to type.

In other public institutions, such as hospitals, the armed forces and prisons, provision is made for the religious needs of people who profess different denominations or different creeds. The clergy of the Church of England, the Church of Scotland or the Church in Wales provide spiritual care and are paid a salary for this part of their work. Clergy of other denominations may be appointed as required.

Although advertising which aims to promote religious ends is prohibited on television and radio, the British Broadcasting Corporation and independent television and radio transmit many broadcasts on religious topics; these include not only religious services but also programmes in which Christians, representatives of other religions, and non-believers discuss their personal views.

FREEDOM OF EXPRESSION

Article 19. *Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

Full rights of freedom of opinion and expression exist, although there are some limitations, most of which are concerned with the welfare of the public and the protection of individuals against slander. These restrictions include the official secrets legislation¹ and the laws relating to civil defamation, criminal libel, obscenity, sedition,² incitement to racial hatred and contempt of court. There are some restrictions on the public performance of plays and films. There are legal remedies against defamation, although fair comment on matters of public interest may be a defence in limited circumstances; proof that the defamatory matter is true is also a defence. In the same way a frank canvassing of sexual problems is not considered to be an infringement of the law against obscenity, nor is a serious discussion concerning a judicial decision treated as contempt of court. Changes in the law of contempt are under discussion.

The Press³

Freedom of the press was established after 1695 when printed matter ceased to need a government licence, and censorship was allowed to lapse. The press today caters for a variety of political views, different levels of education and a wide range of interests. It is subject neither to state control nor to censorship. Although pronounced views are expressed, and newspapers' political leanings may be obvious, individual papers are almost always independent of political parties and thus free from a requirement to follow a specific party political line. Foreign papers of all varieties are imported into the country.

Broadcasting⁴

All British broadcasting is based on the tradition that it is a public service accountable to the people through Parliament. Television and radio are the responsibility of two broadcasting authorities, the British Broadcasting Corporation (BBC) and the Independent Broadcasting Authority (IBA), which work to general requirements and objectives placed on them by Parliament, but which are quite independent in the day-to-day conduct of their

¹Section 2 of the Official Secrets Act 1911 makes it a criminal offence to disclose official information without authority to do so. The section has for some time been regarded as too broad in its scope, and there has been uncertainty about its interpretation and enforcement. The Government has concluded that the section should be replaced by an Official Information Act, limiting much more strictly the application of the criminal law while securing the highest degree of protection for information, the disclosure of which might cause serious harm to the interests of the nation.

²Sedition is a general term covering attempts to incite discontent, disaffection, disorder, a tumult, or to subvert the Government, constitution or laws of the country. It must also be shown that there was an intention to cause violence.

³See COI reference pamphlet, *The British Press*, R5572.

⁴See COI reference pamphlet, *Broadcasting in Britain*, R5532.

broadcasting operations and, in particular, in determining programme content.

The Home Secretary regulates broadcasting generally under legislation which prohibits the sending or receiving of wireless communications except under licence; radio reception is exempted from this requirement. He is answerable to Parliament on broad policy questions, and may issue directions on a number of technical and other matters.

The BBC, financed by the revenue from television licence fees, operates two national television channels, four national radio services and 20 local radio stations. Its external radio services transmit programmes to other countries. Independent television and radio are financed by advertising revenue received by the broadcasting companies which provide the programmes for transmission by the IBA; there is no sponsorship of programmes by advertisers.

In July 1978 the Government published proposals for the future constitution, structure and organisation of British broadcasting. They included the establishment of an Open Broadcasting Authority to supervise a new television service, the expansion of local radio, and the creation of an independent Broadcasting Complaints Commission to adjudicate complaints of misrepresentation, unfairness or invasion of privacy in programmes.

Arrangements are made between the broadcasting authorities and the main political parties whereby broadcasting time is made available for periodic party political broadcasts during election campaigns and during the period between elections. The broadcasting authorities are required to be impartial in the presentation of their news programmes, and in their treatment of matters of political or industrial controversy or matters relating to current public policy.

In its overseas broadcasts the BBC's main objectives are to give unbiased news, to reflect British opinion and to project British life and culture. The languages in which the external services broadcast (39 including English) and the length of time each language is on the air are prescribed by the Government. This apart, the BBC has full responsibility, and is completely independent, in determining the content of news and other programmes.

The reception in the United Kingdom of foreign broadcasts is not subject to official control. Anyone who wishes to listen to programmes transmitted from overseas countries is free to do so.

The Theatre

There is no censorship of plays, but the Theatres Act 1968 makes it a criminal offence to present or direct an obscene performance of a play in public or in private (including theatre clubs). An obscene performance is defined as one which, taken as a whole, tends to 'deprave and corrupt persons who are likely to attend it'. There is a defence against an obscenity charge on the grounds that the performance is for the public good in the interest of, for example, drama, opera or literature.

The Cinema

The Government has no power to censor films. Public cinemas must, however, be licensed by local authorities, and conditions may be attached to the licences.

The authorities must by law prohibit cinemas from admitting children under 16 years to unsuitable films, but they have no legal duty to censor films for adults. The usual practice is for an authority to attach to a licence conditions that no film shall be shown without either a certificate issued by the British Board of Film Censors (BBFC) or the authority's prior permission. The BBFC is an independent, unofficial body set up in 1912 by the film industry to ensure that a proper standard is maintained in films offered to the public. It has considerable influence in the industry but has no legal powers. The granting of a BBFC certificate (in one of four categories according to the film's suitability for different age groups) does not in itself exempt cinemas or distributors from court proceedings on the grounds of obscenity. (A defence similar to that for plays is available for films. The taking of indecent photographs or films of children is forbidden by law.) A local licensing authority can allow the showing of a film which has no certificate, and permit the restoration of any cuts made by the BBFC. Conversely it has no obligation to allow the showing of a film passed by the BBFC. In practice, in the case of a very controversial film, different authorities sometimes adopt different attitudes.

Local authority licensing powers do not extend to cinema clubs, although the clubs are, with the film distributors, subject to the criminal law of obscenity.

Customs and excise officials have powers to seize any indecent article, including films, imported into the country.

ASSEMBLIES AND ASSOCIATIONS

Article 20. (i) *Everyone has the right to freedom of peaceful assembly and association.*

(ii) *No-one may be compelled to belong to an association.*

People may freely meet in public provided they obey the law and their conduct does not give rise to a breach of the peace. They may also organise and take part in processions. The Public Order Act 1936 gives the police certain powers for the preservation of public order on the occasion of public processions and meetings. It also prohibits the carrying of offensive weapons and the wearing of uniforms in connection with political associations or the promotion of political objectives.

Everyone has the right to join an association but a person is liable to prosecution if he or she is involved in a criminal conspiracy (an agreement to do an unlawful act or a lawful act by unlawful means) or may be sued for damages and an injunction if involved in a civil conspiracy (a combination to cause damage to a person without lawful justification, which is carried into effect and results in damage). In addition, associations organised for the purpose of usurping the functions of the police or the armed forces, or of using force for a political object are unlawful. If, however, the object of a legal association is likely to have an important effect upon non-members, as, for example, private insurance companies and charitable trusts, the

association is usually required to be registered and this involves observing certain rules. No law obliges anyone to join an association against his or her will, although membership of a professional organisation may sometimes be a condition of engaging in certain occupations (the legal profession is one example).

Employers and trade unions can draw up 'closed shop' agreements which require that members of a particular group of employees join a specified union in order to obtain and retain their employment (see p 32). In view of the implication of such agreements for the newspaper industry, the Trade Union and Labour Relations (Amendment) Act 1976 made provision for the preparation by the industry of a charter containing practical guidance on matters affecting the freedom of the press. Since the industry was unable to prepare a charter within 12 months as laid down by the Act, the Secretary of State for Employment is consulting the industry and its trade unions with a view to preparing a draft charter to be submitted for the approval of both Houses of Parliament.

POLITICAL RIGHTS

- Article 21. (i) *Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.*
- (ii) *Everyone has the right of equal access to public service in his country.*
- (iii) *The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.*

Democratic Government¹

The United Kingdom is a parliamentary democracy, the Government being responsible to the people through the elected House of Commons. The other House in the United Kingdom Parliament is the non-elected House of Lords, which is normally a chamber of discussion and revision of proposals, complementing the elected House and not rivalling it.

Local areas in England, Scotland and Wales are served by elected district and county (regional in Scotland) authorities which make available a wide range of public services. In Greater London there are borough councils, the Corporation of the City of London and the Greater London Council.

All men and women aged 18 or over have the right to vote in parliamentary and local government elections. The only people not allowed to vote are aliens, sentenced prisoners, people of unsound mind and those convicted within the previous five years of corrupt or illegal practices. Members of the House of Lords are not able to vote in parliamentary elections but may

¹See COI reference documents *The British Parliament*, R5448, *The Central Government of Britain*, R5564, and *Local Government in Britain*, R5505.

do so in local elections and in elections of United Kingdom representatives to the European Assembly.

Parliamentary elections take place at least every five years. Between the beginning of 1950 and October 1978 there were nine such 'general' elections, the last taking place in October 1974. A by-election for a parliamentary seat is held if an elected member resigns or dies during the life of the Parliament. Elections for local government authorities are also held at regular intervals. If councillors vacate their office at any other time, elections are held to find replacements. The secret ballot is used at all elections.

Candidature for parliamentary elections is open to anyone aged 21 and over who is eligible to vote except for clergy of certain Christian churches, undischarged bankrupts and holders of certain public offices (including judges, civil servants and members of the police and armed forces). There are also a number of statutory disqualifications for candidature in local government elections. Most candidates represent political parties but this is not a requirement and some represent less formal groupings or stand as independents.

Voting at British elections is the 'simple majority' or 'first-past-the-post' system; the candidate with the largest number of votes is elected whether or not his or her vote is a majority of all votes cast.

In Northern Ireland since 1972 the voting system for local government elections has been a form of proportional representation known as the 'single transferable vote'; this will also be used in the Province for the elections to the European Assembly. The system is designed to ensure a fair representation of minority opinions.

European Community Membership

The United Kingdom became a member of the European Community in 1973 (see p 48). In a national referendum in 1975 the British people voted by a majority of over two to one in favour of the Government's recommendation that the country should remain in the Community. In common with the other member states the United Kingdom sends some parliamentarians to sit in the European Assembly which examines draft Community legislation (and delivers opinions at the end of the examination), questions the Commission and the Council of Ministers, and debates matters of importance for the Community. The European Assembly Elections Act 1978 provides for the United Kingdom to hold direct elections to the European Assembly, and these will be held for the first time in all member states in 1979.

Devolution of Government

Elected assemblies in Scotland and Wales responsible for a wide range of domestic affairs have been proposed by the Government to give, within the wider framework of the United Kingdom, closer democratic control over many of the increasingly complex processes of modern administration, and to recognise the distinctive Scottish and Welsh traditions which are widely valued as part of the country's common heritage.¹ The establishment of

¹For further information about the Government's proposals, see COI Factel No 679, *Devolution in the United Kingdom*.

each assembly is subject to the approval of at least 40 per cent of the Scottish and Welsh electorates in referendums to be held in March 1979.

Northern Ireland, which for many years had its own subordinate legislature and executive to deal with many domestic matters, is at present governed under 'direct rule' from London because of terrorist violence and a failure in the Province to agree on how, in a divided community, a system of government can be devised having sufficiently broad support to provide stable and effective administration. The British Government's aim, however, remains a devolved system of government for Northern Ireland.

Public Service¹

Officials working in central and local government have a long tradition of political neutrality. Public offices are open to men and women, without distinction on grounds of sex, religion, race or colour. Within the civil service, for example, selection is by open competition, supervised by an independent body, the Civil Service Commission, and the system of promotion is by merit. A change of minister does not involve a change of departmental staff, the functions and positions of the civil servant remaining the same whichever political party is in office.

SOCIAL AND INDUSTRIAL WELFARE

Article 22. *Everyone, as a member of society, has the right to social security and is entitled to the realisation, through national effort and international co operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.*

In the United Kingdom there is a comprehensive system of social services, a publicly financed National Health Service and a publicly maintained education system. (For fuller details, see Article 2 and Articles 23-27.)

- Article 23. (i) *Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*
- (ii) *Everyone, without any discrimination, has the right to equal pay for equal work.*
- (iii) *Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.*
- (iv) *Everyone has the right to form and to join trade unions for the protection of his interests.*

¹See COI reference pamphlets *The British Civil Service*, R5599, and *Local Government in Britain*, R5505.

Freedom to exercise the right to work is secured in the United Kingdom by the personal liberty of the subject. There is no government 'direction of labour' and no rules or orders compelling an individual to perform any particular kind of work.

Employment Services

Some 1,000 'Jobcentres' and local employment offices run by the Manpower Services Commission provide a comprehensive service for employers needing staff and for people seeking jobs or wishing to change employment. The local employment offices are being replaced by the Jobcentres which provide self-service facilities in addition to other services.

The public employment service makes special provision for disabled people. Over 500 disablement resettlement officers advise and assist disabled people to secure the most suitable employment and, where necessary, arrange courses of employment rehabilitation and training. They also advise employers about employing disabled people and about grants available for adapting equipment to the needs of the disabled worker. The officers administer a quota scheme requiring employers to include a percentage of registered disabled people among their work-force. Sheltered employment is provided by a publicly financed non-profit-making company, Remploy Ltd, and by local authorities and voluntary organisations.

Other specialist employment services include a free advisory service available to people changing or choosing jobs, and Professional and Executive Recruitment, which is designed for the needs of managers, professionals, scientists and technicians. Geographical mobility schemes are used to ease unemployment by enabling some unemployed people to take up work in other areas and assisting them with expenses while looking for work. Another scheme helps workers who move to occupy key posts in establishments set up in areas of high unemployment.

The Careers Service, which is the responsibility of local education authorities, is a vocational guidance and employment service for people attending educational institutions or in the early years of their employment. People can also use the general employment services.

Training

Although the main responsibility for industrial and commercial training rests with individual employers, the Government has taken several measures to help secure the supply of trained manpower needed for the economy.

Over half the working population are employed in industries covered by industrial training boards financed by levies on employers and by government grants. Each board is responsible for training in its particular industry. The boards' operating plans and budgets are agreed, over a two-year period, with the Manpower Services Commission. Training for people not covered by the boards is promoted by the Commission, which maintains liaison with all large employers and assists with training grants for key activities.

The Commission also runs a Training Opportunities Scheme intended to supplement training given in industry and commerce. Training takes place in the Commission's skillcentres and annexes and at colleges of further education and employer's establishments. Courses concentrate on manual

skills in, for example, engineering, construction and automotive trades and on non-manual skills such as book-keeping, secretarial, technical and management work. Special courses in addition to the normal range of courses are available for disabled workers. Trainees are paid weekly tax-free training allowances, the rate increasing with the number of dependants.

Unemployment

In common with many other industrialised countries, unemployment has risen in the 1970s to the highest levels for 40 years because of the economic depression. An additional factor is the increase in the labour force caused by the larger numbers of young people and married women seeking work.

The social security system (see p 35) helps to protect people against the consequences of unemployment by providing unemployment benefit for up to a year; the supplementary benefits scheme ensures that the incomes of unemployed people do not drop below a certain level.

In order to combat unemployment among young people, the Government has started a Youth Opportunities Programme under which any school leaver who has been unemployed for more than six weeks, or who is not going on to further education, is being offered training and work experience. The programme includes courses during which young people are prepared for work through training on employers' premises, in further education establishments and in government skillcentres. In addition, there is practical training experience and participation in sponsored projects. The various elements last from a few weeks to one year and each person receives an allowance of £18 a week.

Other special measures to check the rise in unemployment include a temporary employment subsidy for firms who agree to defer redundancies which would otherwise have taken place, a small firms employment subsidy for extra jobs provided by small manufacturing firms in certain areas of very high unemployment, and a job release scheme to encourage older workers near retirement age to leave work early and so release jobs for young unemployed people.

Workers with a minimum period of service of 104 weeks are entitled to lump-sum redundancy payments if their jobs cease to exist (for example, because of technological improvements or a decline in demand for the product) and if their employers cannot offer suitable alternative work. Employees are entitled to a minimum period of notice when employment is terminated.

Protection is also given against unfair dismissal by machinery under which an employee may make a complaint against an employer of unfair dismissal and obtain reinstatement, re-engagement or compensation; industrial tribunals (see p 13) decide whether dismissal is unfair.

Equal Pay and Opportunities

The Race Relations Act 1976 makes it unlawful, with some limited exceptions, for an employer to discriminate on grounds of colour, race, nationality or ethnic or national origin in recruitment or in the treatment of existing employees concerning terms of employment, training, promotion, other benefits, or dismissal. The Act also applies to contract workers, partnerships

of six or more, employment agencies, qualifying bodies, and vocational training bodies.

The Equal Pay Act 1970 (and corresponding legislation in Northern Ireland) came into operation in 1975 (see p 4). It is intended to eliminate discrimination between men and women as regards pay and other terms and conditions of employment. The United Kingdom has ratified the International Labour Organisation's convention dealing with equal pay and the equal pay legislation meets its obligations as a member of the European Community in accordance with the Treaty of Rome.

Although there is a difference between women's average earnings and men's, a combination of the equal pay legislation and the pay policies of successive Governments has resulted in a substantial improvement in women's earnings relative to those of men. Between 1970 and 1977 women's average gross hourly earnings increased from 63 per cent of those of men to nearly 76 per cent.

The Sex Discrimination Act 1975 (see p 4) complements the equal pay legislation by making it unlawful for employers to discriminate against women (or men) in recruitment or in the treatment of existing employees. It also applies to employment agencies, trade unions, partnerships of six or more, qualifying bodies and vocational training bodies.

Pay and Working Conditions

The pay of most workers is negotiated between trade unions and employers, subject from time to time to national pay policies. In a small number of industries and trades, where there is no adequate negotiating machinery, minimum wages are fixed by statutory orders giving effect to the proposals of wages councils or boards consisting of employers, trade unionists and independent members. Hours of work and holidays are described under Article 24.

The health and safety of employees is safeguarded by legislation setting out certain standards concerning health, safety and amenity on farms and construction sites, and in factories, offices, mines and nuclear installations. Inspectorates enforce the legislation.

The Health and Safety at Work etc Act 1974 reorganised the system under which health and safety at work was safeguarded and extended protection to cover everyone at work, except those in domestic service. It is also designed to further the protection of the general public from risks to health or safety arising from work activities. Subordinate legislation deals with such matters as the fencing of machinery; precautions against the exposure of people to toxic gases and dusts; precautions against fire, dangerous substances and special risks; the safe condition of premises; and cleanliness, lighting, temperature and ventilation.

The 1974 Act gives inspectors the power to issue a prohibition notice which stops any process or activity likely to lead to serious personal injury or ill-health. Remedial action is specified in the notice, and once this has been taken, the notice lapses. An improvement notice may be issued ordering a fault to be remedied within a specified time. Inspectors also have power to prosecute any person contravening a relevant statutory provision; this power may be used instead of, or in addition to, serving a notice.

The legislation is administered by the Health and Safety Commission and its operational arm, the Health and Safety Executive. The 1974 Act's basic obligations are supported by ministerial powers to make regulations dealing with a wide range of health and safety matters. Regulations may be supplemented, where appropriate, by codes of practice approved by the Commission.

Trade Unions

The British trade union movement is old-established, strong and influential. In nearly all industries and occupations some workers—and in some industries nearly all workers—are members of trade unions. Trade unions started more than 200 years ago among the skilled craftsmen, and later spread to unskilled workers. More recently, trade unionism has increased among clerical, supervisory, technical and administrative workers.

The qualification for membership of some unions is occupational, while in others recruitment takes place among all employees in an industry, whatever their occupation. In many unions recruitment is based on a combination of these principles. Although the total membership of trade unions is about 11.75 million (nearly half the employed working population), the influence of the movement spreads far beyond its own members. Through their collective agreements with employers, trade unions negotiate pay and other terms of employment in most occupations. The movement is regularly consulted by the Government on a wide range of public issues.

Statute law has established the legality of trade unions, and of their normal activities, including the arranging of strike action. The Trade Union and Labour Relations Act 1974 defines the status of unions and employers' associations, and gives them certain civil law immunities. It gives legal immunities to people who induce a breach of contract or interfere with the performance of a contract, or who carry out peaceful picketing, in contemplation or furtherance of a trade dispute. It also defines what is meant by a trade dispute. The law does not require employers (except boards of nationalised industries) to negotiate with and consult trade unions, nor does it forbid an employer to refuse to employ a trade unionist (although it is 'unfair' to dismiss a worker for union membership or activity—see below). Collective agreements between employers and trade unions are not legally binding unless they contain a provision to that effect, although they can be, and often are, incorporated in individual contracts of employment. 'No-strike' clauses may not be incorporated in an employee's contract of employment unless authorised by a collective agreement which meets certain specified requirements.

As part of employees' statutory protection against unfair dismissal (see p 30), several provisions relate to trade unionism. Dismissal on grounds of union membership or activity is automatically unfair, as is dismissal for refusal to join a non-independent trade union. Where there is a 'closed shop' agreement in operation (see p 26), it is fair to dismiss an employee for refusal to belong to a union specified in the agreement unless the employee genuinely objects on religious grounds to belonging to any trade union or has reasonable grounds for objecting to belonging to the union in question, in which case his dismissal is unfair. Under a special procedure, an employee who

believes that he has been dismissed on grounds of trade union membership or activity can apply to an industrial tribunal for an interim order to keep his employment contract in force until the fairness of the dismissal has been determined.

Article 24. *Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.*

Hours of work and holidays with pay are usually determined by collective agreements between trade unions and employers or their representatives. Adult men are, as a rule, free of statutory limitation on their hours of work—the most important exception being underground workers in coal mining—but in many occupations the hours of work of women and young people under 18 are restricted by law to 48 hours a week, and of those under 16 to 44 hours a week. The normal working week is in the range of 39 to 40 hours for manual work and 37 to 38 hours for non-manual work, a five-day week being usually worked. Actual hours worked by men in manual occupations are usually longer because of overtime, which is paid at higher rates; in April 1978 average total weekly hours were 46 for men and 40 for women. Men and women in non-manual occupations generally work relatively little overtime, although senior salaried staff may from time to time be required to work substantial (unpaid) overtime. A number of collective agreements limit the extent of overtime working and/or define the circumstances in which it may be worked.

Holiday entitlements are normally determined by collective agreements which generally provide for at least three weeks' paid holiday a year. However, about one-third of manual workers covered by agreements have entitlements of four weeks or more. Non-manual workers generally have longer holidays than manual workers. Additional holidays, dependent upon length of service, are also quite common. There are eight or nine days of public holidays each year.

Article 25. (i) *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

(ii) *Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

A comprehensive system of social services includes the National Health Service, personal social services, publicly provided housing, income support through social security, and services designed to promote the welfare of mothers and young children. Many special services are provided through co-operation between statutory and voluntary bodies. People are also free to make their own arrangements for safeguarding the health and well-being of their families by, for example, purchasing their own homes or paying for private medical treatment.

Health¹

The National Health Service, started in 1948, is based upon the principle that everyone should be entitled to the best medical treatment available, irrespective of means. Most of the services are completely free, their cost being met largely from general taxation. There are some charges paid by adults for medical prescriptions, spectacles and dental treatment; these charges are remitted for children and people on low incomes. Retirement pensioners are exempted from prescription charges as are expectant and nursing mothers, patients suffering from certain medical conditions, people on low incomes, and people disabled through service in the armed forces and receiving a war service pension (when the prescription is for treatment of an accepted war service disability).

The full range of health services includes those provided by family doctors, dentists, opticians and pharmacists; there is freedom of choice by the patient. Other elements of the health service include free medical and dental inspection of pupils at schools, and hospital and specialist services. There is a free system of transport in ambulances where necessary on medical grounds. The blood transfusion service relies entirely on voluntary blood donors.

Elderly and disabled people make particularly heavy use of the National Health Service. The aim of the health and personal social services is to enable elderly people to maintain independent lives in the community for as long as possible. District nurses and family doctors visit patients at home and nursing aids are free of charge. The services of state registered chiropodists are also free. Many hospitals have rehabilitation departments designed to assist recovery from injury or disablement and there are also centres for fitting artificial limbs. Aids issued to disabled people may include walking frames and powered wheelchairs.

Services for mentally disordered people are usually accepted voluntarily. However, there are procedures under the Mental Health Act 1959 (currently being reviewed) which allow the use of compulsion provided that certain strict criteria are set. The procedures include safeguards for patients.

Patients are free to seek private medical treatment and doctors, dentists and opticians are able to practise privately. Among the major users of private medicine are subscribers to health insurance schemes which make limited payments for private health care in return for annual subscriptions. There are also private hospitals and nursing homes. In addition, patients can be treated privately in National Health Service hospitals but these facilities are gradually being phased out.

Strict controls are maintained over the manufacture and distribution of medicines and over the marketing of new medicinal products.

Patients are protected against poor medical care by the practice of registering doctors, dentists and other health professionals. In some health professions, practice cannot take place without registration. Statutes govern the composition of the registering bodies and lay down the education, training and experience required for admission to the register.

There is a complaints procedure under which patients can complain to the Health Service Commissioner if they feel that they have suffered injustice

¹For a fuller account, see COI reference pamphlet *Health Services in Britain*, R5154.

or hardship as a result of failure in a service provided by a health authority, failure by a health authority to offer a service which it has a duty to provide, or maladministration. Before the Commissioner can investigate, the complaint has to be sent to the relevant health authority and sufficient time given for it to investigate and to reply. Some matters are outside the Commissioner's jurisdiction, notably action taken solely in the exercise of clinical judgment, and the action of family doctors, dentists, opticians or pharmacists where a different complaints procedure operates. The Commissioner publishes reports of the cases investigated without naming anyone involved in the complaint.

Personal Social Services

In addition to the National Health Service there are the personal social services made available by local authorities and voluntary organisations. These provide services (including social work) for children and their families, the elderly, the physically handicapped and the mentally ill and the mentally handicapped.

Local authorities are obliged to assist disabled people by, for instance, installing telephones, adapting housing by widening doorways, installing grabrails or making other improvements. Greater access for disabled people to public buildings is also an important part of the Government's policy. There is a minister responsible for disabled people.

Other services include day centres for the elderly and the mentally ill, training centres for the mentally and physically handicapped, home helps and delivery of meals to groups in need, residential accommodation for elderly and disabled people, and day care for some children under the age of five.

Advice and help is given to families with special problems and children are taken into care if they have been abandoned, have no parent or guardian or if their families are unable to provide for them. Efforts are made to work with their families in order to avoid the necessity for a child to be taken into care and, where appropriate, to enable a child to return home when in care.

Complaints about maladministration in a local authority service can be referred to the Commissioner for Local Administration.

Social Security¹

There is a comprehensive system of social security benefits designed to provide income support during periods of inability to earn, to help families, and to compensate for disablement incurred through service in the armed forces or through accidents at work. The system includes national insurance benefits (covering sickness and invalidity, industrial injuries, unemployment, childbirth, death, widowhood and retirement), child benefit payable for all children resident in the United Kingdom, and provision for disabled people. There is also a 'safety net' of supplementary benefits designed to maintain a minimum standard of living for people not in full-time work whose income is below a certain level. Low earners with children are helped by family

¹For a fuller account, see COI reference pamphlet *Social Security in Britain*, R5455.

income supplement. Social security benefits are usually increased annually to take account of inflation.

One of the most important recent advances is the new state pension scheme starting in 1978 which will provide earnings-related retirement, invalidity and widowhood pensions with protection against rising prices; the scheme will mature fully after 20 years of contributions. Other important measures have included new benefits to assist extremely disabled people, for example, attendance allowance for those needing a lot of attention and/or supervision by day or at night or both, and mobility allowance designed to help the transport costs of those unable, or virtually unable, to walk.

Mothers and Children

Special arrangements are made under the National Health Service for the treatment and care of mothers and young children. Practically all mothers give birth to their babies in health service hospital maternity wards where they are cared for by hospital doctors, midwives and nursing staff. On return home the mother and baby are attended by a midwife and, once her task is completed, a health visitor calls on the mother to give support and advice. The health visitor also seeks, in collaboration with medical colleagues, the earliest possible identification of infants likely to develop mental or physical handicaps. Some hospitals have comprehensive assessment centres for handicapped children. Close liaison is maintained between the centres and the community so that parents of handicapped children are made aware of the facilities available for day care, special education and other help. The health authorities are also responsible for medical inspection and treatment of handicapped children in special schools (see p 39).

Preventive services include a network of child health centres which have facilities for the regular and systematic surveillance of children's physical and mental health and development. Free but voluntary immunisation and vaccination are given against diphtheria, tetanus, whooping cough, poliomyelitis, measles, tuberculosis, and, for girls aged 11-13 and women of child-bearing age, rubella.

The social security and employment protection legislation makes provision to help women who have babies. A state maternity grant is payable for all confinements provided that either the mother or her husband has paid national insurance contributions. In addition, working women who have satisfied contribution conditions may be entitled to a maternity allowance which is normally paid each week from 11 weeks before the confinement until the sixth week afterwards.

Women who leave work to have a child and who wish to return after its birth have the right to do so, and are entitled to six weeks' paid maternity leave if they have worked continuously for their employer for two years. The pay amounts to 90 per cent of normal weekly pay minus the amount of the national insurance maternity allowance.

Children may be brought before a juvenile court if they are neglected or ill treated, exposed to moral danger, beyond the control of parents, not attending school or (if ten years or over) have committed an offence (other than homicide). The court may place the child in the care of the local authority if satisfied that one of these grounds has been proved and that he is in need

of care and control. In Scotland children who are considered to be in need of compulsory measures of care may be brought before a children's hearing which has power to decide what form of protection, control, guidance or treatment the child requires. The local authority is responsible for implementing the hearing's decision.

Children in care may be boarded out with foster parents or placed in a residential home usually run by the local authority or a voluntary agency.

The social stigma attaching to children of illegitimate birth has diminished greatly during the past few decades, and they suffer few disadvantages today. Moreover, illegitimate children can be legitimated by the subsequent marriage of their parents. Under the births registration law, a short form of birth certificate may be obtained which does not disclose particulars of a child's parentage. Illegitimate children have equal rights with legitimate in the estate of their parents for the purpose of intestate succession. The expression 'child' in a will or deed is construed to include an illegitimate child, unless the context otherwise requires.

Family Planning

The National Health Service makes available free family planning facilities through family planning clinics, hospitals and a domiciliary service. Most family doctors provide a similar service for women only.

Abortion

Under the Abortion Act 1967 termination of a pregnancy may take place if two registered doctors think that its continuance would involve a greater risk to the life of the pregnant woman (or of injury to her physical or mental health or that of any existing children in the family) than if the pregnancy were ended. Termination may also be allowed if the two doctors think that there is a substantial risk of the child being born with severe physical or mental abnormalities. Abortions may be carried out in National Health Service hospitals or in premises officially approved for the purpose. The Abortion Act does not apply in Northern Ireland.

EDUCATION, SCIENCE AND THE ARTS

Article 26. (i) *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*

(ii) *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*

- (iii) *Parents have a prior right to choose the kind of education that shall be given to their children.*

Education

All children in the United Kingdom between the ages of 5 and 16 must by law attend school or be educated in some other approved way.¹ An increasing number of two- to four-year-olds attend nursery schools or classes or play-groups organised by parents. After the age of 16 about a quarter of pupils stay on voluntarily at school—some until 18 or 19, the age of entry into higher education in the universities, polytechnics or other colleges. For those who leave school earlier a wide range of further education is available.

The education systems of England, Scotland, Northern Ireland and, more recently, Wales have each developed independently and are separately administered. This means that each has certain distinctive features, but most basic principles are common throughout the United Kingdom.

The organisation of education outside the universities is a local responsibility, under the general supervision of central government education ministers. The elected local authorities must make adequate provisions for school and non-university post-school education for people living in their areas. They are responsible for the provision and maintenance of schools and colleges, the employment and payment of teachers in them, and the supply of books and materials.

Although managers or governors are responsible for the general conduct of the school and its curriculum and the requirements of public examinations lead to some uniformity, head teachers are free within wide limits to organise schools according to their own ideas. Teachers are not bound by official instructions on syllabuses, textbooks and teaching methods. Religious education forms part of the curriculum in all maintained schools although there is provision for parents to withdraw their children on grounds of conscience and for teachers to exercise similar rights.

Inspectors review, and report to central government, on the content and value of the education provided, and are available as advisers. Local education authorities also appoint their own advisers. (The current public debate on education issues in the United Kingdom is concerned, among other matters, with teaching methods and with the idea of a basic 'core' curriculum.)

The education legislation (the Education Act 1944 in particular) fully recognises parents' rights to have their wishes taken into account. The existence within the state system of education of 'voluntary' schools—schools which are, or have been, provided by voluntary organisations, mainly the churches, but which are maintained partly or wholly by public funds—enables most parents who wish their children to attend schools of a denominational character to have this choice within the public system and without payment of fees.

Parents also have the right to send children to private, fee-paying 'independent' schools outside the state system; nearly half a million children

¹For fuller information about educational provision in the United Kingdom, see COI reference pamphlets *Education in Britain*, R4751, and *Schools in Britain*, R6024.

attend such schools. The schools must be registered and are subject to official inspection.

No fees for tuition, books or materials are charged in publicly maintained schools which are attended by about 95 per cent of school children. School meals are provided at a subsidised price (free where the family income is below a certain level), and one-third of a pint of milk is provided free each school day to all pupils under 7 and to older pupils on health grounds; free milk may also be provided for all 7-11 year olds, but this is a matter for local discretion. Free travel is normally provided for a pupil whose journey between home and school is beyond a certain distance.

About 80 per cent of pupils in maintained secondary schools in England and Wales (over 98 per cent in Scotland) attend 'comprehensive' schools which are non-selective and provide education for pupils of a wide range of abilities. Government legislation designed to hasten progress towards a fully comprehensive system of secondary education in England and Wales was passed in 1976. In the meantime, most of the remaining children are allocated after selection procedures either to 'grammar' schools (which provide a mainly academic education) or to other schools, mainly secondary 'modern' schools giving a general education with a practical bias. In Northern Ireland, too, a system of comprehensive secondary schools is to be developed.

In England, Scotland and Wales the Government has under several schemes allocated special resources for the improvement of educational facilities for children with particular social difficulties in 'priority' areas. Special additions to salary have been introduced for teachers working in schools of exceptional difficulty, and additional funds have been allotted for school building. Community schools, pre-school experiments and new approaches to adult education have been encouraged.

In certain urban areas with substantial ethnic minority groups—chiefly originating from the West Indies, India, Pakistan and Bangladesh—special measures have been taken so that children can develop and realise their full potential. The most important task for the schools has been to help children to improve their knowledge of English, without which they are unable to take advantage of the full school curriculum or the range of employment opportunities when they leave school.

Throughout the United Kingdom special educational treatment is provided for children physically handicapped by deafness, blindness or other physical disabilities and for those with severe emotional difficulties or those who are educationally subnormal. Some handicapped children attend ordinary schools while others go to special schools, but it is a long-standing Government policy not to send to special schools those handicapped children who can be educated satisfactorily at ordinary schools.

An added dimension for Welsh schools is that of language, as Wales is a bilingual country. Welsh, a form of British Celtic, is the first language of many people there and was spoken by about a fifth of the population at the time of the 1971 census. Since Welsh is the language of the home for many children, it has long been government policy to foster its use in the schools, and to encourage the adoption of progressive bilingual policies sensitive to the views of parents and, wherever possible, taking account of individual parental wishes.

Post-school education is organised very flexibly so that it is available to everyone above school-leaving age and can be provided at all levels—advanced (or higher) or non-advanced, full-time or part-time, vocational or non-vocational. Financial help is often available from public funds—over 90 per cent of students taking advanced courses in universities, polytechnics and other colleges are aided by public grants. In England and Wales 13 per cent of the 18-year-old age group were involved in full-time higher and further education in 1975-76 (compared with about 11 per cent in 1965-66) and 30 per cent of the 17-year-olds were engaged in full-time education (almost twice the proportion ten years earlier).

The United Kingdom has 44 universities (excluding the Open University), 26 of which have been created since 1945. By long-established tradition universities have remained free from state control in both administrative and academic affairs. They are self-governing bodies, although about 90 per cent of their funds derive from Government sources. Money for recurrent purposes is given mainly in the form of a block grant to the University Grants Committee which then allocates the grant among the universities.

Some 60,000 students are following courses at the pioneering Open University which provides part-time courses using a combination of television and radio broadcasts, correspondence courses and summer schools, together with a network of viewing and listening centres. Most students follow the courses while in full-time employment. No formal qualifications are required to register for courses, but the standards of degrees (awarded on a system of credits for each course completed) are the same as those of other universities.

Article 27. (i) *Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.*

(ii) *Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.*

Everyone is free to take part in the cultural life of the community. There are also far greater opportunities than before, as standards of education rise and leisure time increases.

The Arts

During the past 30 years there has been a steady growth in popular interest, both active and passive, in the arts. This development—reflected, for example, in the profusion of amateur dramatic and musical societies, the growth in sales of books and gramophone records, and the large attendance figures at major art exhibitions—is mainly the result of increased leisure time and improved education in the arts. Another major factor is television and radio which make the best in the arts available to people in their own homes.

Promotion and patronage of the arts are the concern of both official and unofficial bodies.¹ The Government and local authorities take an active part, and an increasing amount of help also comes from private sources,

¹For fuller information, see COI fact sheet *The Promotion of the Arts*, FSB/A9.

including trusts and commercial concerns. Policies towards support for the arts have two main aims. One is to maintain and improve the traditional arts and cultural heritage, and to make them more accessible to people. The other is to provide financial aid to working artists and craftsmen, and to encourage more people to take part in creative leisure pursuits.

A Minister of State at the Department of Education and Science is responsible for general arts policy, and the Secretaries of State for Wales, Scotland and Northern Ireland are also concerned with cultural matters. In addition, the Government is responsible for the upkeep of many historic buildings and ancient monuments, and grants from public funds help maintain many privately owned historic buildings.

The main educational functions concerning the arts are carried out through the central government education departments. They are concerned, in partnership with local education authorities and voluntary bodies, with arts education in schools, further education colleges, polytechnics, evening institutes and community centres, and with the public library service.

Most government support for the arts takes the form of grants to independent agencies, the most important of which is the Arts Council of Great Britain, which aims to develop and improve the knowledge, understanding and practice of the arts, to increase their accessibility to the public, and to advise and co-operate with central and local government and other bodies. The Council gives financial help and advice to over 1,200 organisations, from the major opera, dance and drama companies, orchestras and festivals, to the smallest touring theatres and experimental groups. It encourages such diverse interests as community arts, contemporary dance and art films, and helps professional creative writers, musicians, composers, artists and photographers by means of bursary and award schemes. It runs art galleries and promotes art exhibitions and tours of opera and ballet companies. Funds are provided for specialist training courses in the arts, and the Council also assists projects for the construction of new buildings or improvements to existing theatres, concert halls and other arts buildings.

The Council allocates grants to the main artistic bodies in England but a growing proportion of its funds is channelled to regional arts associations (see p 42) which allocate funds independently. Organisations in Scotland and Wales receive their grants from the Scottish and Welsh Arts Councils which are committees of the Arts Council of Great Britain. An Arts Council in Northern Ireland has aims and functions similar to those of its Great Britain counterpart.

A major contribution to British arts (particularly music and drama) is made by the British Broadcasting Corporation—which has its own orchestras—and, to a lesser extent, by the independent television and radio programme companies and the Independent Broadcasting Authority.

Local authorities support the arts in many ways. In addition to their responsibilities for education (including specialised art education) and the public library service, many provide and maintain local museums and art galleries. They contribute to regional arts associations and to the expenses of professional orchestras and local theatre companies. Grants are often made towards the capital and running costs of arts buildings, such as theatres.

Valuable support for the arts comes from many voluntary sources including

charitable trusts and foundations, and supporters' organisations of the major national institutions. Industrial and commercial concerns provide a certain amount of patronage, and an Association for Business Sponsorship of the Arts has been formed to advise interested companies. Sponsorship may take the form of grants to regional arts associations, local festivals and orchestras, and donations towards individual cultural events. Tax advantages and exemptions are available to encourage such support.

Regional co-operation in arts patronage is encouraged through regional arts associations—15 in England and Wales—the aim of which is to ensure that the whole range of the arts is more widely available to people throughout their areas. They channel financial help to local arts organisations, and offer an advisory and promotional service for all sorts of local arts activities. They are financed by a combination of local authority, Arts Council and private funds. Local authorities and many other interests are represented on the associations' committees.

The Government promotes knowledge of British literature and culture overseas mainly through the British Council which maintains libraries in the countries in which it is represented. The council sponsors overseas tours by leading British actors, producers, theatre companies, musicians, orchestras and opera and ballet companies. It promotes exhibitions and lectures overseas on the fine arts in the United Kingdom; organises British participation in international exhibitions; and distributes overseas a wide range of specialised films, many of them on the arts.

Scientific Research and Development

The Government is the main source of funds for scientific research and development as a whole, although private industry contributes a larger proportion of funds for civil research and development.¹ Funds are also provided by public corporations, independent trusts and foundations, and learned societies. The Government keeps under review facilities for training scientists, and ensures that adequate research is directed to matters of national interest. (The United Kingdom has the largest number of Nobel prize-winners for science outside the United States and the highest in the world in terms of prizes per head of the population—one per million compared with one per two million in the United States.)

Central responsibility for basic civil science rests with the Secretary of State for Education and Science, who is advised by the Advisory Board for the Research Councils. The Board's functions include advising on the allocation of the 'science budget', mainly among the five main research councils (the Agricultural Research Council, the Medical Research Council, the Natural Environment Research Council, the Science Research Council and the Social Science Research Council). Research financed from the science budget is intended to develop the sciences, to maintain facilities for basic research and to support higher education in the scientific field. Much of it is carried out in universities or by university teams and results are published in the normal way.

Responsibility for technology rests mainly with the Secretary of State for

¹ See COI reference pamphlet *The Promotion of the Sciences in Britain*, R5624.

Industry. Individual government departments are responsible for research and development related to their responsibilities.

Copyright and Patents

The law governing the right of an author, artist or composer to prevent another person copying an original work which he himself has created, is embodied in the Copyright Act 1956, which consolidated and amended earlier legislation to bring the newer technical developments (particularly radio and television broadcasting) within the scope of the copyright law. Under the Act, copyright in every original literary, dramatic, musical or artistic work subsists generally for the life of the author and for a period of 50 years after his death. No formalities are necessary to secure copyright in the United Kingdom, which applies to unpublished as well as to published work.

Scientific inventions and designs are protected by provisions of the Patents Acts 1949 and 1977 and the Registered Designs Act 1949. Grants of patents are made through the Patent Office, subject to the provisions of the relevant Acts. Performers' rights are safeguarded in the Dramatic and Musical Performers' Act 1958 and the Performers' Protection Act 1963, which gave effect to the Rome Convention of 1961.

SAFEGUARDS FOR HUMAN RIGHTS

Article 28. *Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.*

Article 29. (i) *Everyone has duties to the community in which alone the free and full development of his personality is possible.*

(ii) *In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*

(iii) *These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.*

Article 30. *Nothing in this Declaration may be interpreted as implying for any State, group, or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.*

The rights and freedoms set out in these last three Articles of the Universal Declaration of Human Rights are not susceptible of illustration in detail from the principles of the British constitution, legal systems or way of life; nor indeed from the constitution, legal system or way of life of any one country. In general, however, it may be said that there have been signs in the

United Kingdom of a steady, conscious effort to produce the kind of society in which everyone is able to enjoy his rights without a struggle and is therefore willing to exercise restraint in his claims. Law, public opinion and custom all point in this direction; and in many spheres, progress has undoubtedly been achieved. Today, it is understood that there is an inherent danger in a complex society in too great an emphasis on 'rights' alone, whether of the individual or of some special group or section of the community, since such emphasis, if drawn to its logical conclusion, can lead to anarchy and strife. In contrast, the willingness of many to devote their skills and time voluntarily to the care of people with special difficulties, or to help deal with the environmental and other problems of an advanced industrialised country, is shown by the continuing growth of voluntary service, notwithstanding the slow extension of state provision in every field. This also helps to promote the understanding that the concentration of power in the hands of the executive as a means of curbing selfish interests for the sake of the public good must be limited and strictly defined, for unless limitations are imposed, liberty would be imperilled.

INTERNATIONAL ARRANGEMENTS

Questions about the liberty of the individual and his relations with the State have always formed an important part of European philosophy and political theory. For hundreds of years there has been concern about human rights and their extension, both within individual countries and internationally. The belief that certain rights are inalienable underpins such documents as the English Bill of Rights (1689), the American Declaration of Independence (1776) and the French Declaration of the Rights of Man (1789). These led to the further proposition that human rights could only be guaranteed in a society in which political and civil liberties flourish. In the nineteenth and twentieth centuries more importance has been given to economic and social rights and a great deal of social legislation has been implemented in many countries.

The twentieth century has also seen a growing recognition that the abuse of human rights is the legitimate subject of international concern and that their enforcement can no longer be left to national governments alone. Since 1945 various internationally agreed documents have stressed the importance of human rights. These include the United Nations Charter, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the European Convention of Human Rights. In addition, the Helsinki Final Act of the Conference on Security and Co-operation in Europe has placed human rights on the agenda of East-West relations.

The United Kingdom takes a full and active part in international arrangements designed to secure the observance of the human rights outlined in the Universal Declaration. The Government also tries to promote greater respect for human rights in its bilateral relations with countries where the situation gives cause for concern.

The United Nations

The protection and promotion of human rights throughout the world is one of the most important activities of the United Nations (UN). In 1948 the General Assembly adopted the *Universal Declaration of Human Rights*, which is not a legally binding international agreement. In 1966, after many years' work, the General Assembly adopted two international covenants designed to transform the provisions of the document into international law—the International Covenant Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

The *Covenant on Economic, Social and Cultural Rights* binds parties to take steps towards a series of rights, including the right to work, to form and join trade unions, to social security, to an adequate standard of living and education, to the highest attainable standard of physical and mental health and to take part in the cultural life of the nation and of the world.

The *Covenant on Civil and Political Rights* recognises the following rights, among others: the right to life; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from slavery; the right to liberty and security of person; the right to liberty of movement and freedom within the territory of a state; the right to leave any country; freedom from arbitrary expulsion; equality before courts and tribunals; the right to recognition as a person before the law; the right to privacy; the right to freedom of thought, conscience and religion; the right to hold opinions without interference; the right of peaceful assembly; the right to freedom of association, including the right to form and join trade unions; the right to marry; and the right to take part in the conduct of public affairs.

Both covenants came into force in 1976 and were ratified by the United Kingdom in the same year. The United Kingdom also accepted the optional Article 41 of the Covenant on Civil and Political Rights recognising the competence of the UN's Human Rights Committee to receive and consider state-to-state complaints. The other main function of the Committee is to consider reports from states on the measures taken to give effect to these rights.

A number of conventions less comprehensive in scope, and more specialised, have also been adopted by the UN and its specialised agencies—notably the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO)—aimed at implementing specific rights listed in the Universal Declaration. The United Kingdom is a party, for instance, to conventions on the political rights of women, the nationality of married women, the status of refugees and stateless persons, slavery conventions, the elimination of racial discrimination, the prevention and punishment of genocide, the abolition of forced labour (ILO), the right to organise and collective bargaining (ILO), equal pay (ILO), freedom of association (ILO) and discrimination in education (UNESCO).

Responsibility for United Nations work concerning human rights is entrusted to the Economic and Social Council which reports to the General Assembly. The long-established bodies directly concerned with human rights matters under the supervision of the Council are the Commission on Human Rights, its Sub-commission on Prevention of Discrimination and Treatment of Minorities, and the Commission on the Status of Women. The United

Kingdom has been represented on all these bodies and has played an active part in their work.

The Council of Europe

Closely linked with the Universal Declaration of Human Rights, and partly inspired by it, is the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, an instrument imposing legal obligations, which was adopted by the Council of Europe in 1950.¹ The Convention came into force in 1953 and binds the United Kingdom and other member states. It provides an international guarantee for basic rights and freedoms.

The statute establishing the Council requires that every member state 'must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms'. Any member state which has seriously violated this precept may be asked to withdraw from the Council and, if it does not comply, may be expelled.

The rights and freedoms protected by the European Convention include: the right to life; freedom from torture or inhuman or degrading treatment and from slavery or forced labour; rights to liberty and a fair trial; respect for private and family life, home and correspondence; freedom of thought, conscience and religion; freedom of expression and association; the right to marry and found a family; and enjoyment of these rights and freedoms without discrimination.

These rights have been extended by a First Protocol, dealing with the peaceful enjoyment of possessions, education and free elections (which the United Kingdom has ratified subject to a reservation affecting the right to education); and a Fourth Protocol, dealing with freedom of movement (which the United Kingdom has not ratified because of its inconsistency with the application of its immigration control to some holders of British passports).

The Commission and the Court

The rights defined in the Convention are safeguarded by the European Commission of Human Rights, the European Court of Human Rights, and the Committee of Ministers which consists of the 20 foreign ministers or their deputies.

Any member state can refer to the Commission an alleged breach of the Convention by another member state. In addition, there is a right of petition by an individual to the Commission against his or her own government; this right, accepted by the United Kingdom in 1966, applies only against member states (the majority) which have accepted it. However, an individual petitioner must try to have the grievance put right by national courts or other authorities before approaching the Commission.

¹The Council of Europe was created in 1949, its main purposes being to uphold the principles of parliamentary democracy and to provide a framework for member governments to discuss common political and economic problems. The member states are Austria, Belgium, Cyprus, Denmark, France, the Federal Republic of Germany, Greece, Iceland, the Irish Republic, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

If the Commission decides that a case is admissible, it investigates the full facts and tries to reach a friendly settlement. If the attempt is unsuccessful, the Commission reports to the Committee of Ministers, stating whether, in its opinion, there has been a violation of the Convention. The issue can then be referred by the Commission or by a state concerned to the European Court of Human Rights for a decision, provided that the state against which the case is brought has accepted the Court's jurisdiction. The Court is composed of one independent judge from each member state and can award compensation to an individual in certain circumstances. If the case is not referred to the Court within three months, the Committee of Ministers must take a decision on it.

By ratifying the Convention, member states have agreed to abide by the decisions of the Committee of Ministers and most have also agreed to accept the compulsory jurisdiction of the Court in cases to which they are parties. In the United Kingdom applications lodged under the Convention have contributed to the creation of a new system of appeals for immigrants and new regulations about the rights of prisoners to have access to the courts.

Social and Economic Rights

Social and economic rights within the member states of the Council of Europe are the concern of the European Social Charter which is in force in a majority of member states including the United Kingdom. It contains a series of rights and principles—covering, for instance, various employment and training matters, equal pay for women, the right to social and medical services, the safeguarding of the family, and the protection of migrant workers—and provides for progressive implementation and for supervision by the examination of two-yearly progress reports. There is also the European Code of Social Security, the aim of which is to encourage higher standards with regard to benefits. A Convention is being prepared to protect workers more effectively against the risks and consequences of unemployment.

The Conference on Security and Co-operation in Europe

In August 1975 representatives of 35 countries, including the United Kingdom, met in Helsinki to sign the Final Act of the European Conference on Security and Co-operation in Europe which is a declaration of principles guiding relations between the participating states. Part of the document concerned human rights, the signatories undertaking to respect human rights and fundamental freedoms and to encourage 'the effective exercise of civil, political, economic, social, cultural and other rights and freedoms ...'. The participating states also agreed to co-operate to ease restrictions concerning family reunification, easier marriage between citizens of different states, and the freer movement of ideas and information in Europe.

The signatories met again in Belgrade from October 1977 to March 1978 to exchange views on the implementation of the Final Act. The concluding document stressed the political importance of the Conference on Security and Co-operation in Europe, the signatories reaffirming their resolve to implement fully all the provisions of the Final Act. A further follow-up conference is to be held in Madrid in 1980.

The European Community

The United Kingdom is a member of the European Community which is concerned largely with economic and some social policies.¹ Although the areas covered by Community law are not strictly concerned with human rights as such, several aspects relate fairly directly to such rights. The Treaty of Rome, which established the Community in 1957, contains articles dealing, for example, with the free movement of workers, services and capital; the promotion of close co-operation in employment matters, labour law and working conditions, vocational training, social security, health and safety at work, and rights of association and collective bargaining; the general prohibition of discrimination between workers of member states on the grounds of nationality; and the principle that men and women should receive equal pay for equal work. The European Social Fund aims to improve employment opportunities and to contribute to the raising of the standard of living. The Court of Justice of the Communities plays a central part in the interpretation and implementation of Community treaties and has a duty to ensure that the law is observed in their interpretation and application. The European Assembly, which will be elected directly by universal suffrage in 1979, already provides a forum for representatives of the peoples of the member states.

In 1977 the European Assembly, the Court, and the Commission signed a joint declaration on the importance they attach to the protection of fundamental rights. The declaration has no legal force and concerns the activities of the three community institutions rather than those of the member states.

¹ The other member states are Belgium, Denmark, France, the Federal Republic of Germany, the Irish Republic, Italy, Luxembourg and the Netherlands. For further details of the Community, see COI reference pamphlet *Britain in the European Community*, R5999.

READING LIST

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¹Copies available from the Commission's Secretary, 55 Royal Avenue, Belfast BT1 1TA.

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